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6 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 JOSE MARIA SANDOVAL-
11 LOPEZ,12 Defendant.
13

NO. CR-00-2083-RHW

**ORDER GRANTING
PLAINTIFF'S MOTION TO
VACATE JUDGMENT**

14 Before the Court is the United States' Motion for Order Vacating Judgment
15 (Ct. Rec. 128). The United States requests that the Court vacate and re-enter
16 judgment against Defendant to allow an appeal to proceed, eliminating the need for
17 an evidentiary hearing (Ct. Rec. 128).

18 The Ninth Circuit Court of Appeals remanded this case to the Court for an
19 evidentiary hearing to determine whether Defendant actually requested his attorney
20 to appeal his judgment (Ct. Rec. 123). *United States v. Sandoval-Lopez*, 409 F.3d
21 1193, 1198 (9th Cir. 2005). The Circuit Court gave the United States an
22 alternative option "to choose not to oppose Sandoval-Lopez's petition and to let
23 him appeal." *Id.* In its current motion, Plaintiff proposes to do just that (Ct. Rec.
24 128), and Defendant's counsel has consented to forego an evidentiary hearing and
25 to allow this case to proceed on appeal (Ct. Rec. 130).

26 Accordingly, **IT IS HEREBY ORDERED:**

27 1. Plaintiff's Motion for Order Vacating Judgment (Ct. Rec. 128) is

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1 **GRANTED.** The judgment of May 7, 2001, against Defendant (Ct. Rec. 100) is
2 **VACATED.**

3 2. The District Court Executive is directed to **RE-ENTER THE**
4 **AMENDED JUDGMENT** as of today's date to allow Defendant's appeal to
5 proceed, and to **STRIKE** the evidentiary hearing in this matter scheduled for
6 October 18, 2005 (Ct. Rec. 124).

7 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
8 Order and forward copies to counsel and to the Ninth Circuit Court of Appeals.

9 **DATED** this 23rd day of August, 2005.

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11 s/ ROBERT H. WHALEY
12 CHIEF UNITED STATES DISTRICT JUDGE
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